**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE ANTONY DOMINIC**

**WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929**

**WP(C).No. 31735 of 2007(C)**
**----------**

**PETITIONER:**
**----------**

**SWAPNA BIJOY, PROPRIETRIX, SWABIN TRANSPORTS, PENTA TOWERS, OPP. P.V.S.HOSPITAL, KALOOR, KOCHI-682017.**

**BY ADV. SRI.K.JAJU BABU**
**SMT.M.U.VIJAYALAKSHMI**

**RESPONDENTS:**
**----------**

**1. CANARA BANK, REPRESENTED BY SENIOR MANAGER, CURRENCY CHEST, TRIPUNITHURA.**

**2. CEECY TRAVELS, FORT ROAD, NORTH PARUR.**

**BY SRI.M.C.SEN, SC FOR R1**

**THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 13/11/2007, THE COURT ON 21/11/2007 DELIVERED THE FOLLOWING:**

**ANTONY DOMINIC, J.**

**==========**

**W.P.(C) NO. 31735 OF 2007 - C**

**==========**

**Dated this the 21st day of November, 2007**

**J U D G M E N T**

The prayers in this writ petition are for quashing Ext.P6 and for directing the 1st respondent to permit the petitioner to operate the van covered by Exts. P2 and P9 registration certificates for transporting the currency chest in pursuance to Ext.P1.

2. Pursuant to Ext.P1, petitioner was awarded a contract for transportation of currency notes on behalf of the 1st respondent Bank. It is stated that the 1st respondent required the petitioner to increase the seating capacity of the vehicle. Thereupon, a request was made to the RTO and on its rejection, the petitioner filed an appeal to the Deputy Transport Commissioner, which was also dismissed. She filed W.P.(C) No.3703/07 before this court challenging the aforesaid orders. Meanwhile, Ext.P6 proceedings were issued by the 1st respondent on 30th of July 2007, informing the petitioner that since the

seating capacity was not enhanced, petitioner's services were not required. Producing Ext.P6 as Ext.P14, petitioner filed IA 10639/07 in WP(C) No.3703/07 and obtained Ext.P7 order of stay dated 13th August 2007.

3. The writ petition was finally disposed of by judgment dated 23rd August 2007. In the judgment, taking into account the fact that similar request was granted in respect of yet another person, 1st respondent therein was directed to give permission to the petitioner for increasing the seating capacity. Accordingly, seating capacity was increased. It is stated that with the increased seating capacity, though the vehicle was offered to the 1st respondent, they are not permitting the petitioner to use the same in pursuance to Ext.P1 and it is in this behalf, this writ petition has been filed with the reliefs mentioned above.

4. Notice was served on the standing counsel for the 1st respondent. It is submitted that though as per Ext.P1 contract was awarded initially to the petitioner, since the seating capacity was not increased as required by the Bank, the Bank had invited fresh tenders on 17/12/06 by public advertisement. It is

submitted that in response to the advertisement so issued, the petitioner as also the 2nd respondent had made offers. As the offer of the 2nd respondent was the lowest that was accepted and work order was awarded to the 2nd respondent and that it is on that basis, the vehicle offered by the 2nd respondent has been accepted for transportation of currency chests.

5. Petitioner did not dispute the fact that the Bank had invited a tender as submitted by the learned senior counsel. Petitioner also do not have a case that she did not make an offer of response in respect thereof. If this is the accepted factual position, this is a case where the petitioner has lost out because her rates were not acceptable to the Bank. That apart, the petitioner also has not challenged the tender notified by the Bank on 17/12/2006 but on the other hand was trying to take advantage of that as well. In the absence of a challenge to the tender so notified by the Bank and the contract that was awarded to the 2nd respondent, petitioner is not justified in asking for a direction to the 1st respondent to permit her to operate the vehicle. Further, in view of the tender so awarded to the 2nd

respondent, Ext.P1 work order awarded to the petitioner has lost its efficacy. Therefore, this court will not be justified in granting any relief to the petitioner.

6. Petitioner complains that subsequently the Bank has engaged an additional vehicle offered by the 2nd respondent and that too without any tender or public advertisement. This very submission is objected to by 1st respondent who argues that in the writ petition there is absolutely no pleading covering this aspect. This submission is perfectly justified. Petitioner has not raised any contention in the writ petition in so far as this complaint is concerned. If that be so, in the absence of any pleading, this court will not justified in taking cognizance of the said submission. If the petitioner is aggrieved, petitioner may independently challenge the same.

For the aforesaid reasons, I do not think that the petitioner is entitled to any reliefs in this writ petition. Writ petition fails and is dismissed.

**ANTONY DOMINIC,**
**JUDGE**

Rp